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Paper No. 5

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Alpharetta, GA 30022

**Technology Center 2100**

In re Application of: Jaworski  
Application No. 10/083,749  
Filed: February 25, 2002  
For: SYSTEM OF TESTING THE  
UPSTREAM CABLE MODEM  
CHANNEL

)  
) **DECISION ON PETITION TO MAKE**  
) **SPECIAL UNDER M.P.E.P. §708.02(II):**  
) **INFRINGEMENT**  
)

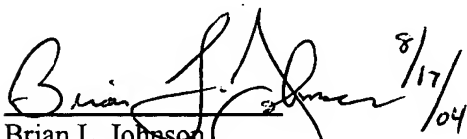
This is a decision on the request for reconsideration (supplemental petition) filed on July 20, 2004. A petition to make special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, was filed on April 20, 2004 and subsequently dismissed in the decision mailed on July 15, 2004.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 20, 2004 and request for reconsideration filed July 20, 2004, include all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. §1.102.

Telephone inquiries should be directed to the undersigned at (703) 308-0885.

  
8/17/04

Brian L. Johnson  
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blj: 8/17/04